

USE TAX RCW 82.12

Tax Base Items used in this state, the acquisition of which was not subject to Washington retail sales tax. This includes purchases made from out-of-state sellers (e.g., via catalogues, the Internet, etc.), purchases from sellers who are not required to collect Washington sales tax (e.g., a vehicle sold by a private individual who is not engaged in business), items produced for use by the producer, and gifts and prizes. The tax is measured by the value of the item at the time of the first use within the state, excluding any delivery charges.

Tax Rate Same as retail sales tax - 6.5 percent levied by the state. Including local use taxes, the combined rate currently ranges from 7.0 to 8.9 percent.

Levied by State (also see section on local sales/use taxes).

Recent Collections (\$000)

<u>Fiscal Year</u>	<u>Collections</u>	<u>% Change</u>	<u>% of All State Taxes</u>
2001	\$401,326	4.6%	3.4%
2000	383,796	14.3	3.3
1999	335,811	2.9	2.9
1998	326,233	(1.5)	2.9
1997	331,121	12.3	3.2
1996	294,947	0.9	3.0
1995	292,450	5.6	3.0
1994	276,897	3.1	3.1
1993	268,533	8.9	3.2
1992	246,587	(3.6)	3.1

Administration Department of Revenue. Tax on equipment bought in other states and on manufactured items used in production is reported by businesses on their combined excise tax return (Form #40 2406). Tax on private sales of registered vehicles is collected by county auditors and registration agents when the title is transferred. Individuals who acquire items which were not subject to sales tax (e.g., purchases in other states, at garage sales, etc.) are obligated to report the tax on the Notice of Use Tax Due (Form # 83 2501) which is obtainable at any Department field office or by telephone. Legislation in 2001 allows purchasers who buy at least \$10 million of goods

subject to sales/use tax annually to report the tax directly by obtaining a direct pay permit from the Department. This allows the tax to be reported during the same month via electronic funds transfer by the purchaser, rather than the retail vendor.

Distribution of Receipts State general fund.

Use tax paid on water pollution control devices that are funded from the water quality account is earmarked for the water quality account (RCW 82.32.390).

A variety of local taxes are credited against the state retail sales and use tax, e.g., for stadium construction, local public facilities, convention centers and tourism programs. Revenues are distributed to the appropriate local funds. (See Retail Sales Tax section.)

Exemptions and Credits

Use tax exemptions parallel those allowed under the retail sales tax. There are a few additional use tax exemptions such as for computers donated to schools and items donated to nonprofit organizations or governmental entities, vehicles acquired in other states by military personnel, driver-training vehicles, extracted fuel used in production, naval aircraft training equipment, displays at trade shows, use of vessels by manufacturers and dealers for a variety of purposes, and items previously acquired by persons who move to Washington. In computing use tax, a credit is allowed for any sales or use tax paid in other states.

Generally, the use tax applies to the fair market value of the item at the time it is first used in this state. However, items used temporarily in this state for business purposes for less than 180 days during any 365 consecutive days, are subject to use tax on the rental value.

History

See retail sales tax. The use tax was established as a "compensating" tax at the time the retail sales tax was adopted in 1935. All of the subsequent rate changes and most of the tax base revisions have applied to both the retail sales and use taxes.

Discussion/Major Issues

The use tax supplements the retail sales tax; together they constitute a comprehensive tax on consumption of tangible personal property in Washington. In addition to raising revenue and assuring that no "loopholes" exist for items which might otherwise escape retail sales tax, the tax helps to protect Washington retailers from competition via untaxed transactions.

Currently, the state may not require mail order firms to collect sales tax on their sales to Washington residents, if the firm has no physical presence (nexus) in this state. This results from the 1967 U. S. Supreme Court decision in the Bellas Hess case. Mail order transactions now cost the state and local jurisdictions an estimated \$86 million per year in lost sales/use tax revenue. States have attempted to get the Court to reverse its opinion and have lobbied Congress to change the law. Many mail order firms have resisted efforts of states to have them collect the sales/use tax on purchasers from their state, in part due to difficulties of collecting the proper local sales tax rate in states, such as Washington, which have a variety of local rates and many local taxing jurisdictions.

In addition to mail order transactions, technological developments have made the acquisition of goods via electronic commerce feasible for many households and businesses. Purchases via telemarketing and the Internet are increasing at a significant rate and these pose a major threat to sales and use tax revenues. The latest estimates indicate that state and local jurisdictions in Washington are currently losing at least \$173 million per year in lost sales/use tax revenues as a result of E-commerce.

Legally, Washington residents owe use tax on items which were not subject to sales tax. Examples include items purchased in other states and brought into Washington for use here, purchases made via mail order and the Internet (even though the out-of-state seller cannot be required to collect sales tax, the buyer still owes use tax), and items bought from persons other than registered retail vendors, such as at garage sales. From a practical perspective, it is very difficult and would be prohibitively expensive to enforce payment of use tax in all situations in which it is technically due, especially at it applies to individual purchases.

As a result of the difficulties of collection, much of the use tax is paid by businesses, since they are subject to audit. Purchases of vehicles from private sellers represent the most significant category of use tax that is paid by individuals. Among major state taxes, the use tax has the largest level of noncompliance, estimated at nearly 20 percent of the potential tax liability.